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5. From insurance or *insertion* to rights and responsibilities: the shifting logics of unemployment protection in France

Daniel Clegg

The notion of fundamental rights, enjoyed on the basis of common citizenship if not shared humanity, spread only slowly to cover rights to economic and income security (Marshall 1950). Of these social rights, it is those for able-bodied people of working age who find themselves temporarily without work simply as a result of the functioning of competitive labour markets – those who in modern society we have come to call the unemployed – that have traditionally proved most controversial and contested. Because it does not derive from any measurable physical cause such as ill health, old age or disability, the absence of work through unemployment is always vulnerable to being seen as at least partially self-inflicted, and the provision of income support and other social services to individuals in this situation is, as a result, suspected of encouraging indolence and undermining the work ethic (Pennings 1990; Van Langendonck 1997). Such fears help to explain why protection against the risk of unemployment has typically been one of the last-enacted spheres of welfare state activity, in spite of the economic role it can play (Korpi 2006). They are also the reason that protection of the jobless seems to represent a sort of ‘final frontier’ for fundamental social rights.

For all its still frequent identification as *la patrie des droits de l’Homme* (the country of the Rights of Man), this reticence towards universal rights for the unemployed has

been no less evident in the social history of France. Indeed, as this chapter will discuss, even after the belated introduction of a compulsory system of protection against unemployment at the high point of French post-war welfarism, the logic of citizens' rights long continued to play very little role in discourses around, and policies for, the support of the unemployed in France. However in recent years the logic of rights has come to have a growing influence in French unemployment protection. It is argued here that this development has been driven less by changing legal norms or social justice claims than it has by general economic and structural reform pressures, as well as by more specific attempts to create a foundation for the deployment of more efficient supply-side labour reallocation initiatives. Thus the recent rise of a more rights-based conception of support for the unemployed in France has had a, possibly inevitable, corollary in the assertion and enforcement of individual economic responsibilities.

The chapter is organised in four main sections. The first of these recounts how a compulsory national-level unemployment protection system was eventually introduced in France as a result of a collective agreement between the trade unions and the employers, and constructed at one remove from the central state, drawing the latent logic of unemployment protection policies away from rights and towards a pseudo-contractual insurance model. The second section explains how the inherent limits of this dominant insurance approach were mitigated by the complementary development of so-called *insertion* policies, based on the provision of individualised services to facilitate social and labour market integration of 'problem groups', rather than on standardised and general income support. Up to the late 1980s, French unemployment policy rested on a division of programmatic labour between insurance

and *insertion*, in which the concept of universal rights to income protection played virtually no role. The third section discusses how this division of labour has since been disturbed by economic pressures, opening the way to the gradual development of a more unified approach to unemployment protection based on both rights and responsibilities. The fourth section briefly concludes by drawing out some of the implications of this development.

A FUNCTION OF INDUSTRY: THE SOCIAL PARTNERS, UNEMPLOYMENT PROTECTION AND THE LOGIC OF INSURANCE

As in many other countries, sweeping changes were introduced in France in the field of social policy in the wake of the Second World War, when the foundations of a comprehensive system of social protection, a ‘welfare state’,¹ were laid. However, unlike elsewhere, protection against the risk of unemployment was excluded from the scope of these otherwise wide-ranging reforms. Up to the late 1950s France’s system of unemployment protection comprised an uneven patchwork system of localised social assistance and the rump of voluntary state-subsidised insurance funds, the number of which had declined greatly from the 1920s as a result of the depression of the 1930s and the outlawing of their main sponsors, trade unions, during the period of the Vichy government. Plans to extend the new social protection system to cover unemployment were floated in the late 1940s, but not pursued. Although the immediate post-war years were generally conducive to social reform in France, this was not enough to overcome the ‘liberal doubt’ that had long stymied plans for

compulsory unemployment protection (Saint-Jours 1981, p. 120). [is p.20 correct – the page range in the list of references is 93-149] [DC - Corrected to p. 120]

This was to change in 1958, when negotiations initiated by the main employers' confederation (*Conseil National du Patronat Français*, CNPF) and one of the five representative trade union confederations *Force Ouvrière* (FO) eventually resulted in the signing of a national level inter-professional collective agreement establishing an unemployment insurance system. With France's recent entry into the single market presaging a wave of economic restructuring, there was growing awareness of the need for a better system of income support to accompany, and facilitate, the industrial 'shake out'. Suspecting that the government was preparing to legislate on this issue anyway, the CNPF was anxious to guarantee its influence over the shape of the new system, and so proposed a collectively negotiated and self-financing system managed on a strict parity basis by the 'social partners', subject only to *ex post* agreement and *erga omnes* extension by the state. *Force Ouvrière* was persuaded of the advantages of such a system mainly by the prospect of securing a greater managerial role and control over the distribution of administrative jobs and access to funds that would accompany it, than it had had in the general social security system, in the latter, union participation on administrative boards was on the basis of an election system that favoured FO's larger rivals, above all the communist *Confédération Générale du Travail* (CGT). Also eager to weaken the relative position of the CGT, and pleased to be able to claim credit for a concern with social issues without engaging any public funds, the returning President de Gaulle encouraged and supported the CNPF-FO initiative (Daniel 1997).

The agreement signed in December 1958 established a network of insurance funds organised mainly by region and placed under the authority of a national level body, the *Union Nationale Interprofessionnelle pour l'Emploi dans l'Industrie et le Commerce* (UNEDIC). Much like the funds of the general social security system, these funds collected proportional payroll contributions from employers and employees, and paid earnings-related benefits for a limited period to insured unemployed workers. The governing board of UNEDIC, composed only of representatives of workers and employers, was the policy-making body of the system, with responsibility for setting contribution and benefit rates and all other eligibility and entitlement parameters. Though compulsory, nation-wide, and on the surface rather similar to the general social security system (Palier 2005, p. 123), the system of unemployment protection was therefore in some important respects 'essentially private' (Meyers 1965, p. 371).

This had implications for the way that French unemployment insurance came to function, relative to the general social security system. While the latter was clearly a social insurance system, the emphasis had always been as much on the 'social' as the 'insurance'. Thus, while the system was intended to be self-funding, with a balance between incomes (contributions) and expenditures (benefits), this was tempered by the clear desire of its architects to allow social protection to play a contra-cyclical economic role, if necessary by allowing deficits to mount in times of economic downturn (Laroque 1948, p. 626). At the micro-level, while benefit entitlement was initially reserved for contributors and their families, the existence of a minimum contribution requirement was seen as a transitory measure, necessary and desirable only until enough of the population was included in the system (Laroque 1948, p.

643). However, in unemployment insurance the avoidance of deficits over the relatively short term was always an indispensable aspect of the system's autonomous self-regulating character, and a guarantee of its prized autonomy from the state. In this context, some form of rationing of access was always necessary given the employers' concern to limit payroll tax rates to 'manageable' levels; therefore maintaining a link between contribution and entitlement at the individual level was from the outset seen as important. Indeed, one of the employers' main reservations about the possible extension of the general social security system to further social risks like unemployment in the 1950s had precisely been the weak application of the insurance principle, which it claimed it intended to enforce far more strictly through UNEDIC (Daniel 1997). If all social benefits in France gradually came to be perceived as a form of 'deferred salary' and hence the legitimate property of contributors to the system (Palier 2005, p. 79), unemployment benefits would also be perceived in this way, even though this perception was contrary to the intentions of the system's founders. The logic was less one of rights for the unemployed than of a collective saving fund for workers.

In this way it was the logic of insurance, rather than the logic of rights, that was normatively central to French unemployment insurance, and although the system was explicitly one of inter-professional solidarity and risk redistribution, entitlements were always in principle reserved to those who had contributed something and were thus solidly 'affiliated' to the system. This said, there was a considerable gap between principle and practice in the early years of the system's operation, when in the context of a buoyant economy it was possible to expand entitlement while maintaining a financial surplus in the collective fund. Thus, up to the early 1970s, protection was

extended to a number of groups such as former agricultural workers, expatriates returning to France after Algerian independence and certain groups of young labour market entrants with specific technical qualifications (Daniel & Tuchsirer 1999, pp. 193-197), who would have been excluded due to inadequate contribution records if the logic of insurance had been rigidly applied. However these identifiable groups benefited from explicitly 'political' concessions by the social partners to the demands of governments, thereby constituting exceptions that confirmed the rule that in France unemployment benefits were normally paid as a return on contributions made in salaried employment, and not as a right of citizens.

In the immediate aftermath of the oil price shocks of the 1970s the social partners negotiated contribution rate increases that allowed the generosity of unemployment benefit to be maintained, and even enhanced, as the balance between contributors to and beneficiaries of the insurance system shifted sharply in favour of the latter. But as the employment crisis gradually came to be seen as permanent and structural rather than temporary and conjunctural, and as employers' grumblings about the need to moderate the growth of 'social charges' turned into a clamour, so pressures grew for the actual functioning of the unemployment protection system to be realigned on its underlying insurance logic. The then president of the CNPF argued explicitly for the need to better 'distinguish insurance expenditures, for employees having worked and contributed, [under] the responsibility of the social partners, and solidarity expenditures for other job-seekers' (Chotard 1984, p. 372). [is page 372 correct? The page range in the list of references is 484-486] [DC – page number correct, but reference wrong, changed in list of refs] Eager to see the jointly managed system survive, the unions acquiesced and in February 1984 signed an agreement that linked

entitlement to unemployment insurance benefits more closely than before to individual contribution histories.

Under the terms of this emblematic reform, those with no or only limited employment histories and contribution records were excluded from unemployment insurance altogether, or saw their period of entitlement reduced, while at the same time better contributors were rewarded with improved replacement rates and extended periods of entitlement (Daniel & Tuchsirer 1999, p. 290). This emphasis was further reinforced in a 1992 reform when, in a context of fast-rising unemployment, the social partners agreed to again raise the minimum contribution requirements for accessing unemployment insurance benefits as well as to further limit the duration of entitlement for those with short periods of prior work and contribution. Where previously someone entering unemployment after between 6 and 12 months of employment could receive unemployment benefit for between 15 and 21 months depending on age, this was henceforth reduced to a maximum of 7 months for all. By contrast, even after this reform, those with at least two years of prior affiliation could still receive benefits for anything between 30 and 60 months (Daniel & Bassot 1999, p. 54).

In the 1980s and for much of the 1990s, the main French unemployment protection system responded to difficult economic circumstances and resultant retrenchment pressures in large part by reactivating and amplifying the contributory insurance logic that had, in fact, always been embedded in its institutional design. Most striking is that not only employers encouraged this development, but trade unions, usually seen as the primary advocates of ‘decommodification’ and universal social rights,

reluctantly agreed to it. For French unions, adherence to an insurance-based conception of unemployment protection has had the double advantage of protecting their institutional role of co-managers of the unemployment protection system and, in the more recent period of austerity, of shielding the (previously) securely employed and older workers who form their core membership from the most stringent cost-saving measures. However the price to pay for this has been at least tacit acceptance that there will be a section of the workforce (and one which has grown in recent years) who are forced to rely on very different mechanisms of social support when out of work.

EDUCATIONAL RELIEF: *INSERTION* POLICIES

In many developed countries contributory unemployment insurance systems have always coexisted with non-contributory schemes of unemployment or general social assistance, the latter providing benefits as a fundamental right, although almost always on the basis of a means-test, to the most vulnerable groups among those in the workforce who cannot access insurance-based support when unemployed (Schmid & Reissert 1996). Despite the clear insurance logic of French unemployment protection and its increasingly exclusionary implementation after the end of the ‘golden age’, until recently no such general encompassing scheme existed in France. Instead, the limitations of insurance-based measures of social support for the unemployed were addressed through what in French are known as *insertion* policies, just as distant from the conventional logic of universal social rights as insurance.

Insertion policies have their origins in debates around the future of still localised social assistance (*aide sociale*) provision in the early 1970s. At this time, *aide sociale* was coming under increasing scrutiny for its purportedly passive nature, which saw it accused of being a contributory factor in what was in the process of being constructed as a new social problem in France: social exclusion.² In the words of a 1976 report by the national social affairs inspectorate, traditional social assistance was increasingly seen as a ‘system for “the excluded” that, in itself, encourages exclusion’ (IGAS 1976, p. 36). But rather than calls for social assistance to be reformed and modernised, for example, by delocalising its management and removing its discretionary elements, it was instead suggested that it should be replaced with policies for so-called ‘global social action’ at the local level, in which local social service departments would ‘consecrate their activity to health promotion and social action rather than to generally passive social assistance’ (IGAS 1976, p. 36). In this vision it was assumed that social insurance mechanisms would be sufficiently encompassing to provide adequate protection to all ‘normally integrated’ individuals faced with normal social risks, and that the role of any residual provision should be ‘to bring individuals into a dynamic of social reintegration’ (Bec 1998, p. 113). As IGAS (1976, p. 20) put it, ‘for a system of assistance in a certain manner maintaining exclusion will be substituted social security covering the social needs of all the French and social action facilitating individual and communal development’.

Writing in the early twentieth century, the famous British social reformer William Beveridge articulated a strikingly similar vision of social protection for jobless people, based on a division of programmatic labour between a self-regulating inter-professional social protection scheme to cover the cyclical and frictional employment-

related risks of industrial life, and a residual state-run scheme to ‘take in hand’ those for whom the absence of work was more structural, a sign of social deficiency or social handicap. As Beveridge put it, ‘all tiding over should be a function of industry; all relief should be educational’ (Beveridge 1909, p. 234). In the British context this vision was never realised, as attempts to institutionalise a ‘rational’ hierarchy between different forms of provision for specific groups in the jobless population came up against political conflict over the rights and duties of all those in receipt of ‘the dole’ (see Clegg 2005, pp. 148-153). However, on the other side of the channel, it was precisely such a hierarchical system of provision for the jobless that characterised unemployment insurance and *insertion* policy in the late 1970s, ironically at precisely the time when the always heroic belief in the ability to unproblematically classify the jobless population into ‘integrated’ and ‘excluded’ segments was being further undermined by fast rising unemployment in a context of external demand shocks and structural changes in the economy.

The ideal of a division of labour between *insertion* and insurance, in which the question of unconditional rights for the jobless was simply sidestepped, initially proved relatively resilient even in the face of the accelerating employment crisis of the early 1980s. Although in the early 1980s media attention in France came to focus on the ‘new poor’, new groups of individuals who were being thrown into poverty largely as a result of the economic downturn and the increasing scarcity of unskilled jobs, as employers tried to adapt to a more competitive economic environment through labour-saving strategies, policy for those without protection through contributory benefits still emphasised the promotional virtues of *insertion* policies for excluded populations, to which the new poor were quickly assimilated. A high profile

report on welfare policy prepared in 1983 for the then Socialist-led government thus spoke of the need for policy to be designed for ‘a sub-proletariat with shifting boundaries ... that some join and some leave more or less durably only to return in an unfavourable [economic] circumstances, as is currently the case with a large part of those we call the “new poor” (CGP 1983, p. 10). For this ‘sub-proletariat’ the report suggested that an extension of social security or assistance would be inappropriate, and instead recommended that income support should be provided only through policies aimed at actively reintegrating individuals into society (CGP 1983, pp. 18-19).

Even the previously discussed 1984 reform of unemployment insurance, which restricted access to contributory benefits, was not sufficient to immediately overcome the French resistance to assistance. This reform was negotiated on the basis of the state taking over some social benefit responsibilities that had previously been discharged through UNEDIC, and the introduction of two new tax-financed benefit schemes for the unemployed, the *Allocation Spécifique de Solidarité* (ASS) and the *Allocation d’Insertion* (AI). However these broke only marginally with the logic of benefit as a return on contributions. The ASS was a means-tested benefit designed for the long-term unemployed, but only for those who had worked for five full years in the previous ten; contributory conditions that were actually stricter than those in the unemployment insurance system. As for the flat-rate AI, access for its main group of target beneficiaries, young people, was restricted by the need to hold specific professional or vocational qualifications. In any event, this benefit was all but scrapped in the 1992 budget of the Socialist government,³ who justified this by the need to redirect funds to more ‘active’ policy measures.

Thus it was mainly through *insertion* policies, which increasingly came to refer to special employment measures (Meyer 1999), that the government initially provided some social protection for those who were without work and who could not, or no longer, access unemployment insurance. The earliest target of these measures was young people. Following the recommendations of a report entitled 'Professional and Social Insertion of Young People', the Socialist government introduced a massive scheme of temporary collective utility jobs in the public and para-public sectors for 16-21 year olds in 1984, and extended it to 22-25 year olds in the following year. Similar measures for the long-term unemployed were introduced under the Conservative Chirac government between 1986 and 1988, and then merged with measures for the young into a new integrated scheme in 1989. Throughout this period there was also extensive experimentation with, and investment in, *insertion* measures focused on private sector employment, mainly using the mechanism of time-limited social contribution holidays for employers hiring eligible workers. Along with training measures, such measures are of course a standard feature of the unemployment policy arsenal of most developed countries, in addition to, and increasingly often as a condition for, basic rights to social benefit receipt. What was unusual in France is that as *insertion* policies these measures were for a long time seen to be, and functioned as, *alternatives* to basic benefit entitlement for large groups of the unemployed (Enjolras et al. 2001).

TOWARDS RIGHTS AND RESPONSIBILITIES

From the middle of the 1980s, however, the limits of employment-based *insertion* policies as a form of front-line social protection at a time of very high unemployment became increasingly evident. Employment policies are discretionary, not only at the level of government expenditures but also at that of inter-personal allocation. With *insertion* measures, ‘trajectories’ of participation in measures (*parcours d’insertion*) were (and are) necessarily negotiated at the local level between the competent administrations, service providers and potential beneficiaries (Lafore 2008; Palier 1998) on the basis of local opportunities and resource constraints. The scope for inter-personal and inter-territorial inequalities in accessing basic social support was therefore large. Many people fell through the net of provision altogether.

It was in this context that calls for the introduction of a general minimum income scheme, basic social assistance, began to grow louder. Even on the political left there was considerable reticence initially, with the ‘health and solidarity’ advisory group of the French Socialist Party arguing in 1986 that ‘the diversity of real situations requires diversified responses and personalised interventions much more than the systematic delivery of a cash benefit’ (cited in Belorgey 1988, pp. 105-106). [Belorgey is not in the list of references] [DC – added in list] This position was supported by most of the trade union movement too, with the *Confédération Française Démocratique du Travail* (CFDT) typical in worrying that ‘the logic of rights for all, however generous and seductive it may seem, rests on a rupture of the employment/income link’ (CFDT 1987, p. 57). [CFDT is not in the list of references] [DC – Reference corrected in text and added in list] However, just prior to the 1986 elections, the Socialist government did relent somewhat, announcing a number of experimental ‘poverty-precariousness’ programmes in different localities, under which the state would help

local authorities add minimum income provision to their battery of local *insertion* resources through a co-financing mechanism, on the understanding that income support would only be provided if accompanied by more ‘integrative’ measures. On their return to office following the elections, the Conservative government continued this experimentation with their own ‘plan against poverty and precariousness’, based on very similar principles.

The breakthrough in progress on this issue owed less to a fundamental sea-change in policy attitudes than to the electoral strategy of François Mitterrand. Seeking a social basis to mobilise on the left of the electorate, Mitterrand placed the fight against exclusion at the heart of his re-election campaign in 1988. He pledged the creation of a national, compulsory and standardised minimum income scheme, symbolically financed out of an increase in the wealth tax paid by the highest earners. In his campaign document – the ‘letter to all the French’ – he said that it was of ‘little importance’ if the new scheme was called a ‘guaranteed income’ or an ‘*insertion* income’, the essential thing instead being ‘to provide a means of living to those who have nothing, can do nothing, are nothing’ (Mitterrand 1988).

In the event, the national minimum income scheme introduced after Mitterrand’s re-election was named the *Revenu Minimum d’Insertion* (RMI), and under the RMI, the provision of cash benefits, entirely financed by the state, would be systematically accompanied by *insertion* measures, co-financed and organised by local authorities. The link between the benefit and accompanying insertion measures was to be established by the beneficiary and the competent administration signing an *insertion* contract, outlining measures of social and/or professional reintegration that would be

undertaken during the benefit spell. In the parliamentary debates, many, including many Socialists, spoke of the need for a tight relationship between benefit payment and insertion measures (Autes 1990; Paugam 1993). Most saw work as the most important form of *insertion*, although largely due to the local authorities' concerns about the resource implications of funding employment measures (Paugam 1993, p. 109), the content of *insertion* in the framework of the RMI was defined rather more loosely.

If the introduction of the RMI perpetuated the pre-existing 'integrative model' of basic social support (Lafore 2008), it also introduced innovative elements, by undergirding this logic with basic social rights. The RMI was not entirely universal; both recently arrived immigrants and childless people under the age of 25 were excluded from its personal scope of application. However, for those whom it did cover, the RMI offered unconditional guarantees of support on the basis of their status as French citizens and/or residents alone. The first article of the law of 1 December 1988 creating the RMI stated, '[a]ny person who, as a result of their age, their physical or mental condition, [or] the economic and employment situation, is unable to work has the right to obtain reasonable means of existence from society'. The usage of the word 'right' was prominent and significant, representing the resurgence of a *jus naturale* [should jusnaturalist be jus naturale?] [DC – not sure, but happy to go with that suggestion] (natural law or justice) notion that had been largely absent in this field in the post-war period (Lafore 2008, p. 122).

In its first years of existence, the number of recipients of the RMI grew rapidly; from 400 000 recipients in 1989 the caseload swelled to just under one million by 1995, or

nearly two million if all the members of households in receipt of the benefit are included in the headcount. Much of this growth was explained by transfers from unemployment insurance. The biggest year-on-year increase in RMI receipt was in 1993, following the restrictive reform of unemployment insurance in 1992. However, in the light of this rapid growth, it proved difficult for local authorities to organise *insertion* measures to accompany income support. Indeed the title of the report prepared by the national commission charged to evaluate the measure after its first three years of operation was, 'An insertion dynamic that is still insufficient'. Thus the RMI functioned to a large extent as a classic basic social assistance scheme.

In the context of widespread agreement that the *insertion* dimension of the RMI should be reinforced, the understanding of the nature of the *insertion* dimension also began to evolve. From having been seen as a supplementary form of social support for RMI beneficiaries, the *insertion* dimension increasingly came to be understood as an individual *quid pro quo* for the right to benefit (see Hatchuel 1996). With public debate focussing increasingly on the 'drift to assistance' (*dérive assistencielle*) of the RMI and the 'disincentives' and 'inactivity traps' facing its recipients, a succession of reform initiatives focused on promoting a 'culture of responsibility' among beneficiaries and speeding their return to the labour market by whatever means necessary (Clegg 2005, p. 208-211). In 2005 the financial management of the benefit part of the RMI was decentralised to local authorities, mainly in a bid to increase the incentives to *insertion* requirements more rigorously (Join-Lambert & Tuchsirer 2003). In 2009 the RMI was replaced with an entirely new measure, the *Revenu de Solidarité Active* (RSA), in which the benefit can function as a permanent subsidy for

low-paying employment in the private sector, to which beneficiaries are to be increasingly forcefully directed (Dujol & Grass 2009).

In part as a result of the changing terms of the debate around the RMI, but also under the influence of international policy discourses around ‘activation’ (Eichhorst et al. 2008), the enforcement of individual responsibilities in the economic sphere has also become increasingly central to reform debates around French unemployment insurance since the late 1990s. In 2001, following the signature of a new agreement between the employers’ organisations and three of the main trade union confederations, the unemployment insurance benefit was renamed ‘return-to-work benefit’ (*Allocation de Retour à l’Emploi*). Since then claimants have been obliged, much like recipients of the RMI/RSA, to sign a return-to-work plan (*plan d’aide au retour à l’emploi* – PARE) at the beginning of their benefit spell, detailing the measures they will undertake to find new employment. As a result of the PARE, ‘the insured are required to a much greater extent than before to become active in striving for their reintegration into the labour market’ (Barbier & Kaufmann 2008, p. 85). The 2008 merger of the delivery-level agencies of the unemployment insurance system and the public employment service pushes in the same direction, seeking to improve enforcement of these enhanced job search obligations that unemployment insurance recipients now face (Willmann 2009).

These reforms ran directly contrary to the traditional logic of unemployment insurance benefits, where contributions paid were previously a guarantee of a period of otherwise unconditional benefit receipt for the time necessary to find new work in line with the recipient’s skills and prior experience. The logic of these reforms was

essentially an economic one, based on a belated recognition that, in a largely service-based economy, occupational mobility is now often necessary throughout working life. But in questioning the entitlement dimensions of traditional insurance-based provision, these reforms have also helped to weaken the legitimacy of its eligibility aspects. By emphasising the responsibilities of the insured unemployed to retrain and actively seek new kinds of employment, recent reforms have also provoked much livelier discussion about the rights of the unemployed to access unemployment insurance in the first place.

The development and consolidation of activating approaches in French unemployment insurance has thus been accompanied by a gradual but perceptible shift away from the pseudo-contractual logic of eligibility, in which benefits were reserved only for ‘good contributors’. The introduction of the PARE in 2001 was in fact already accompanied by a considerable relaxing of the contribution conditions for those with the shortest work records,⁴ and by the removal of the ‘degressivity’ mechanism under which the rate of benefit was calculated in relation to age, the length of the unemployment duration and the period of the unemployed individual’s prior affiliation. These decisions were partly concessions designed to lever the unions’ agreement to the PARE, and were facilitated by the healthy budgetary position of UNEDIC after a number of years of relatively strong employment growth at the end of the 1990s. But they also signalled a cautious shift towards a logic of citizenship-based rights to non means-tested support in unemployment, a development which subsequently continued. In a newspaper article published in the first days of his campaign for the 2007 Presidential election, Nicolas Sarkozy suggested that in the future ‘unemployment benefit shouldn’t be based on the number of contributions paid,

but above all take account of the objective difficulties that each person has to find employment' (Sarkozy 2005). Though this principle has not been fully implemented since his election, under unemployment insurance agreement effective from 2009, minimum contribution conditions have once again been reduced,⁵ and some limited benefit rights extended to young people with no work history. Without the principle of some relationship between contributions and entitlements being abandoned completely, recent reforms have furthermore removed the 'entitlement bonus' that was long enjoyed by those with the very longest contribution records.⁶

Thus, in the space of just two decades, there has been a fundamental shift in the logic of unemployment protection in France. From a system of protection for the jobless organised around a programmatic division of labour between self-regulating insurance and promotional *insertion*, what has emerged is a structure in which there are two overlapping tiers of social support, each organised around a logic of basic rights counterbalanced with the assertion and enforcement of individual economic responsibilities, codified in 'plans' or 'contracts' established between the competent administration and the jobseekers. Certainly, the rights and responsibilities of the beneficiary are not the same in these two tiers; unemployed recipients of the RMI (now RSA) receive benefit only on the basis of a means-test, and do not enjoy easy access to the better quality training and job-search support programmes that have been co-financed by UNEDIC for unemployment insurance recipients since 2001.

However, there are signs today that the increasingly shared underlying logic, and the perceived need to better streamline and target the provision of labour market services, is drawing these different tiers of unemployment protection closer together. Under the terms of the reform introducing the RSA, recipients who are immediately

available for work must now register with the *Pôle Emploi*, the institution created by the merger between the unemployment insurance system and the public employment service.⁷ The reintegration of most recipients of the RSA and unemployment insurance will be managed through the same agency, and access to a more similar range of support services offered to each group. Similarly, the 2008 Law on ‘the rights and responsibilities of jobseekers’ harmonised the suitable work criteria and benefit sanction regimes that apply to all jobseekers, irrespective of their benefit status. Though there is some distance yet to travel, with an increasingly standardised conceptual framework regulating provision for the jobless in France, it can be anticipated that there will be further moves towards a more integrated legal and institutional framework in the years ahead.

CONCLUSION: UNDERSTANDING AND ASSESSING THE NEW LOGIC OF UNEMPLOYMENT PROTECTION IN FRANCE

The notion of basic or fundamental rights, open to all citizens or residents, has long been largely foreign to French unemployment protection policy. As has been discussed in this chapter, those without work traditionally received support on one of two grounds; as ‘the insured’, in which case benefits were a return on contributions paid, or as ‘the excluded’, in which case public support was less a social right than a social service. The reasons why this has changed in recent decades owes little to either the influence of changing international or regional legal norms or to domestic political advocacy in the name of rights, but is rather the result of a slow process of gradual institutional adaptation to a new economic and labour market context.

As we have seen, the pressure for the introduction of a rights-based minimum income scheme built up mainly as a result of the overburdening of conventional *insertion* policies in a context of high unemployment and the selective retrenchment of unemployment insurance provision. Even then there was widespread resistance to the ‘logic of rights’, including, and perhaps even especially, on the political left and amongst organised labour. Though the right to ‘reasonable means of existence’ was proudly proclaimed in the first article of the law creating the RMI, politically the introduction of this measure was almost furtive, with far more rhetorical emphasis placed on the continuation of the integrative logic of *insertion*. With respect to unemployment insurance, the impetus for change came more from activation initiatives introduced on supply-side labour market reallocation grounds. These measures undermined the insurance logic on which non-means tested provision for the unemployed had traditionally rested in France, and in so doing created a discursive space in which the basis on which unemployed individuals access social support was more open to debate. An approach to eligibility conditions that is more based on common citizenship has emerged in this context, but has been an effect rather than a driver of policy change in this sector.

More broadly, as proponents of basic income measures have long accepted, if not necessarily trumpeted, individualised rights-based approaches to social protection actually mesh rather well with the operation of the increasingly flexible labour markets that characterise open, service-based economies (Van Parijs 1990). From this perspective, the new logic of protection for the unemployed in France is a small but highly symptomatic part of the larger story of the country’s ‘long goodbye’ to a

Bismarckian social protection system that was designed for an earlier, industrial era (Palier forthcoming 2010).

Even if the turn to rights in French unemployment policy has not been driven by new legal norms at international or European level, it has, however, intersected with them. In 2000 the Committee of Social Rights of the Council of Europe concluded that the exclusion of childless under-25s from the scope of application of the RMI was, in the absence of any other basic social assistance scheme for this group, in contravention of the terms of article 13 of the revised Social Charter (Conclusions XV-1- 01/01/2000). The French government of the time was largely unmoved, arguing that the exclusion of young people was justified in the light of the desire not to create ‘inactivity traps’ that would dissuade young people from training or looking for work. However when petitioned by a claimant, the French High Authority for the Fight Against Discrimination and For Equality returned to this issue in the wake of the introduction of the RSA, arguing that government’s response to the Committee of Social Rights was no longer valid given that receipt of the RSA can now be combined with income from work. It therefore charged the government to prepare a report into the consequences of excluding under-25s from the scope of the new law, which was delivered in July 2009 (Commission de Concertation sur la Politique de la Jeunesse 2009). While the report only proposed the extension of the in-work component of the RSA to under-25s, it did bring forward new propositions on the system of social support for unemployed young people too, putting this important issue on the political agenda once again. In this way, the introduction of a logic of rights for the unemployed may have self-reinforcing dynamics, with international or regional legal norms having an amplifying effect on domestic developments.

At the same time, this chapter has shown that the growing influence of a logic of rights in French unemployment protection has gone along with, and to an extent has even been driven by, an increasing emphasis on the economic responsibilities of the jobless. The fact that the rights-based discourse around unemployment protection has grown in popularity coterminously with the responsibility-based discourse, and appears to have a shared cause, does not reduce the logical tension between the two. While in theory it may be possible for them to be reconciled through basic rights to 'active citizenship' (Fredman 2008, p. 230-231) or even a renewed 'right to work' (Mundlak 2007), it seems just as likely that in practice the notions will continue to conflict rather than coalesce. Given the political exposure of the unemployed as a group, especially at a time of economic austerity, there is a clear risk that policy attention will focus more on enforcing responsibilities than on consolidating rights in the years ahead.

For this reason it is rather harder to assess the new logic of unemployment protection in France than it is to explain its emergence. Its impact on jobless individuals is certainly differentiated according to their position in the occupational and social hierarchy. While it has arguably led to more solid and predictable guarantees of social support for 'the excluded', many of those who previously would have been able to simply 'cash in' their insurance contributions when involuntarily out of work, now find themselves subjected to closer behavioural controls than they would have in the past. What is clear is that with the new logic of unemployment protection the treatment of the jobless in France is less institutionally settled than it was in the past,

and, for better or for worse, will henceforth be subject to more explicit and visible negotiation and renegotiation through the democratic process.

NOTES

1. The concept of the welfare state is not entirely appropriate in the French case, where private actors – trade unions, employers and family associations – were given an important role in the management of the social security system implemented after the war. As discussed below, this ‘private’ character of collective and compulsory social protection was underscored and accentuated with the later introduction of unemployment insurance.

2. The first high profile work on the phenomenon of social exclusion in France was published in 1974 (Lenoir 1974). Its author had been head of the *Direction d'Action Social*, the agency charged with local social support policies, since 1970.

3. After the 1991 reform only asylum seekers and recently released prisoners were eligible for AI. AI was replaced in 2006 by a new benefit with similarly narrowly defined target groups, the *Allocation Temporaire d'Attente*.

4. Where previously the minimum contribution condition was four months in the previous eight, this was extended in 2001 to 4 months in the previous 18, thus making it easier for people with unstable labour trajectories to access non-means tested benefits.

5. The reform returned the minimum contribution condition to 4 months in 18 as it had been in 2001, reversing restrictive measures adopted in reforms in 2005. What is novel is that this extension of rights for those with the shortest contribution histories occurred in a context where UNEDIC's finances are under serious strain as a result of the global financial crisis.

6. Concretely, the principle of entitlement in UNEDIC is now ‘one day of benefit for one day of contribution’. In the past, many unemployed people with limited contribution records received benefit for a shorter time than that in which they had contributed, while the opposite was true for many of those with longer contribution histories.

7. It is not necessary, however, for recipients of the RSA to be formally registered as unemployed. The current French government presumably wanted to avoid the political cost paid by Gerhard Schroeder in Germany when, due to the introduction of the Hartz IV reform in 2005, the registration of work-ready social recipients as unemployed caused the open unemployment rate to rise from 10.8 per cent to 12.1 per cent almost overnight.

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